

CLARENCE MCCANN,)
)
Plaintiff,)
)
vs.) Case No. 4:10CV1694 CDP
)
NEW WORLD PASTA COMPANY,)
)
Defendant.)

Plaintiff Clarence McCann has moved to stay this action pending his interlocutory appeal of my order denying his motion to appoint counsel. Whether the case should be stayed is a discretionary question. *See Slaughter v. City of Maplewood*, 731 F.2d 587, 588 (8th Cir. 1984) (holding that denial of a motion to appoint counsel in a § 1983 case is appealable under a collateral order exception); *see also* 15A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 3911 (2d ed.) (noting that jurisdiction does not automatically transfer on appeals of collateral orders, but if reversal of the collateral order is likely to make subsequent proceedings defective the trial court should order a stay pending appeal).

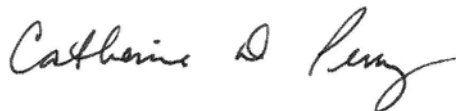
Here, although I continue to believe that appointment of counsel is not appropriate in this case, if the United States Court of Appeals for the Eighth Circuit reverses my decision, any discovery or other trial preparation or motion

proceedings that were conducted during the interim would probably need to be conducted again. Under these circumstances, I believe the best course is to stay matters pending the resolution of the appeal.

Accordingly,

IT IS HEREBY ORDERED that the plaintiff's motion to stay [#36] is **GRANTED**. No further action will take place in this case until the plaintiff's appeal of the motion to appoint counsel has concluded.

IT IS FURTHER ORDERED that the plaintiff's motion to quash is **DENIED AS MOOT**.

A handwritten signature in cursive script, reading "Catherine D. Perry".

CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 20th day of June, 2011.